

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District Dist. Court of S.C.; Charleston Division	
Name Jackie Richardson		Prisoner No. #211240	Case No. FILED
Place of Confinement McCormick Correctional Facility; Route 2, Box 100; McCormick, SC 29899 NOV 26 2003			
Name of Petitioner (include name under which convicted) Jackie Richardson		Name of Respondent (authorized person having custody of petitioner) LARRY W. PROPP, CLERK V. Colie L. Rushton, Warden; and Jon Ozmint, Director, S.C. Dept. of Corrections	
The Attorney General of the State of: Mr. Henry McMaster; Attorney General for South Carolina			
PETITION			
1. Name and location of court which entered the judgment of conviction under attack <u>General Sessions</u> <u>Court for Charleston County; Charleston, South Carolina</u>			
2. Date of judgment of conviction <u>February 10, 1994</u>			
3. Length of sentence <u>Life, plus twenty-five (25) years.</u>			
4. Nature of offense involved (all counts) <u>Two (2) counts of murder; and armed robbery</u>			
5. What was your plea? (Check one)			
(a) Not guilty <input type="checkbox"/>			
(b) Guilty <input checked="" type="checkbox"/>			
(c) Nolo contendere <input type="checkbox"/>			
If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details: <u>Guilty Plea entered on all counts.</u>			
6. If you pleaded not guilty, what kind of trial did you have? (Check one)			
(a) Jury <input type="checkbox"/>			
(b) Judge only <input type="checkbox"/>			
7. Did you testify at the trial? Yes <input type="checkbox"/> No <input type="checkbox"/>			
8. Did you appeal from the judgment of conviction? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			

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9. If you did appeal, answer the following: N/A

(a) Name of court _____

(b) Result _____

(c) Date of result and citation, if known _____

(d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court Charleston County Court of Common Pleas

(2) Nature of proceeding Post-Conviction Relief

(3) Grounds raised Ineffective Assistance of Counsel

Involuntary Guilty Plea

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court Charleston County Court of common Pleas(2) Nature of proceeding Motion hearing on State's request for Summary Judgment.State sought summary dismissal of post-conviction application.(3) Grounds raised Petitioner's lack of competence. Petitioner threatened with violence if he did not desist from seeking post-conviction relief.

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☒ No ☐(5) Result Motion to show cause denied. State's motion for summary judgment granted.(6) Date of result Conditional Order signed March 23, 2000. Final Order Signed September 25, 2001.

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐(2) Second petition, etc. Yes ☒ No ☐(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:N/A

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: Petitioner's Sixth and Fourteenth Amendment rights to the effective
assistance of counsel was denied, rendering his custody unlawful and in violation of the
United States Constitution.

Supporting FACTS (state briefly without citing cases or law) Counsel rendered ineffective assistance
in that: (1) Counsel failed to adequately investigate the Petitioner's competence
before recommending that he plead guilty; (2) Counsel failed to enhance his bar-
gaining position through presenting the prosecutor a mitigation package based on
Petitioner's lack of competence; (3) Counsel failed to submit issue of competence
to sentencing court; (4) Counsel failed to investigate Petitioner's long history of
mental disabilities; (5) Counsel failed to have Petitioner independently evaluated.

B. Ground two: Petitioner's plea was involuntary, and therefore in violation of his
14th Amendment due process rights, which renders his custody unlawful.

Supporting FACTS (state briefly without citing cases or law) Petitioner's guilty plea was involuntary
and unknowing in that: (1) Counsel advised Petitioner that Petitioner had no defense
to the charged offenses; (2) Counsel advised Petitioner that all charges would be
ran concurrent if he plead guilty; (3) Petitioner's guilty plea was made without a
full understanding of the consequences of his guilty plea.

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- C. Ground three: Petitioner's 14th Amendment due process rights were violated in that the State Post-Conviction Court erred to deny Petitioner an evidentiary hearing.

Supporting FACTS (state *briefly* without citing cases or law) The Petitioner has a protected liberty interest in the State conducting an evidentiary hearing to determine the merits of the Petitioner's post-conviction claims. As the Petitioner's physical and mental disabilities prevented the Petitioner from receiving a fair trial, so, too, did these same disabilities prevent the Petitioner from receiving a fair review of his post-conviction allegations. When a State created liberty interest has been denied, then the due process rights guaranteed by the Fourteenth Amendment have also been denied.

- D. Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

ALL GROUNDS PREVIOUSLY PRESENTED.

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?

Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing Preliminary hearing and trial: D. Ashley Pennington, Charleston County Public Defenders Office, Charleston, SC.

(b) At arraignment and plea Ashely Pennington

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- (c) At trial N/A
- (d) At sentencing Ashley Pennington
- (e) On appeal N/A
- (f) In any post-conviction proceeding Linda C. Garrett, 5300 International Blvd., Charleston,
SC
- (g) On appeal from any adverse ruling in a post-conviction proceeding Certiorari; Ms. Brenda F. Shealy,
S.C. Office of Appellate Defense, Columbia, SC

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?


Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

11-11-03
(date)


Signature of Petitioner